

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

AMY R. GURVEY,
Plaintiff-Appellant

v.

**COWAN, LIEBOWITZ & LATMAN, P.C., WILLIAM
BORCHARD, MIDGE HYMAN, BAILA CELEDONIA,
CHRISTOPHER JENSEN,**
Defendants-Appellees

**CLEAR CHANNEL COMMUNICATIONS, INC., LIVE
NATION, INC., INSTANT LIVE CONCERTS, LLC,
NEXTICKETING, INC., DALE HEAD, STEVE
SIMON, SUSAN SCHICK,**
Defendants

2022-1331

Appeal from the United States District Court for the
Southern District of New York in No. 1:06-cv-01202-LGS-
HBP, Judge Lorna G. Schofield.

PER CURIAM.

O R D E R

Amy R. Gurvey moves for an extension of time to file
her opening brief. The appellees oppose the motion and

request that the court dismiss the appeal. Ms. Gurvey files a reply in support of the extension of time in which she also opposes dismissal and moves for sanctions.

This is Ms. Gurvey's latest appeal from the underlying suit brought in the United States District Court for the Southern District of New York in which she alleged, *inter alia*, misappropriation of trade secrets contained in two provisional patent applications and legal malpractice. After the last of Ms. Gurvey's claims was dismissed, she appealed to the United States Court of Appeals for the Second Circuit, which exercised jurisdiction and affirmed. Ms. Gurvey's next appeal sought this court's review of the district court's denial of her motion to vacate. We transferred to the Second Circuit, which subsequently affirmed the district court's decision. Now Ms. Gurvey seeks to appeal to this court from the district court's December 2, 2021, order denying another motion to vacate and denying Ms. Gurvey leave to amend her complaint.

As this court previously informed Ms. Gurvey, the Second Circuit's prior decision that it has jurisdiction over this action constituted the law of the case. While Ms. Gurvey continues to assert that this court has jurisdiction over the appeal under 28 U.S.C. § 1295(a)(1), as we previously explained to Ms. Gurvey, she never amended the complaint to assert infringement of an issued patent that could give rise to a non-frivolous claim arising under the patent laws.* Subject matter jurisdiction over an appeal in this case therefore lies exclusively with the Second Circuit.

* We also noted in our order transferring the prior appeal that the district court previously denied Ms. Gurvey leave to amend her complaint after the patents issued, and that decision survived the Second Circuit's abuse of discretion review. We lack jurisdiction to review the Second Circuit's decision or to grant leave to amend her complaint.

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While appellees urge dismissal of the case as frivolous, we deem it the better course to transfer to the Second Circuit pursuant to 28 U.S.C. § 1631 for that court to address how best to proceed with the appeal.

Accordingly,

IT IS ORDERED THAT:

The appeal and all filings are transferred to the United States Court of Appeals for the Second Circuit pursuant to 28 U.S.C. § 1631.

FOR THE COURT

April 15, 2022
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court